

Amendment and Response  
Title: "Improved Dispensing System for Double Stack Carton"  
Filed: July 24, 2003

Docket No. R029 1281

**REMARKS**

Claims 1-40 are pending in the present application.

***Allowable Subject Matter***

Claims 1-19 and 29-35 are allowed. Claims 21-23 and 38 are indicated as including allowable subject matter. Claims 21 and 38 are rewritten in independent form, rendering claims 21-23 and 38 allowable.

Claims 1-19, 21-23, 29-35 and 38 are therefore allowable.

***Rejections under 35 U.S.C. § 102(b)***

Claims 20, 24-28 and 39 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Oliff et al.* (5,368,194) and by *Stout* (5,518,111). Applicant respectfully traverses.

The Examiner states that *Oliff* discloses a carton and a plurality of containers in two tiers, the carton comprising a bottom panel 18, a bottom side panel 22, a top panel 12, a top side panel 14, a plurality of flaps 30, 34, 68, 72, and a divider 90. The divider 90 is said to have a first divider end 94, a second divider end 98, and a first split 96 in the first divider end 94 that divides the first divider end 94 into a first top end (between 104 and 96) and a first bottom end 94.

Claim 20 is amended to recite a divider having a central portion, and to recite that the divider first top end is "pivotal with respect to the first bottom end, and the first bottom and top ends are pivotal with respect to the central portion." The first divider end is also defined as "having a first split that divides said first divider end into a first top end and a first bottom end."

Referring to *Oliff*, Figure 4 illustrates a dividing insert 90 having a main panel 92, an end flap 94 at one end of the main panel 92, and an end flap 98 at an opposite end of the main panel 92. The end flap 94 is attached to the main panel 92 at a fold line 96, which the Examiner equates with the claimed "first split." Under the Examiner's construction, *Oliff*

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cannot disclose a central portion and individually pivotable top and bottom ends as recited in claim 20. Claim 20 therefore defines over *Oliff*.

Claims 20, 24-28 and 39 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Stout* (U.S. Pat. No. 5,518,111). Applicant respectfully traverses.

The Examiner states that *Stout* discloses a bottom panel 40, a bottom side panel 56, a top panel 42, a top side panel 48, a plurality of flaps 58, 60, 68, 74, 76, 90, 92, and a divider 20. The divider 20 is said to have a first divider end 24 (and adjacent portion of 22), and a second divider end 26 (and adjacent portion of 22), the first divider end having a first split 23 that divides the first divider end into a first top end (a portion of 22), and a first bottom end 24.

Referring to Figure 1, *Stout*'s divider panel 20 has anchor flaps 24, 26 that the Examiner equates with the first and second divider ends. The "split" 23 in *Stout* is equated with a perforated fold line 23 that separates the anchor flap 24 from the central, major panel 22. *Stout* does not, however, disclose individually pivotable top and bottom ends separated by a split, as are recited in amended claim 20. Claim 20 therefore defines over *Stout*.

In light of the above remarks, Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 102(b).

***Rejections under 35 U.S.C. § 103(a)***

Claims 20, 24-28, 36-37 and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over either one of *Oliff et al.* ('194) and *Stout* (5,518,111) in view of *Chaussadas* (5,031,770). Applicant respectfully traverses.

Referring to Figure 3, *Chaussadas*'s divider (unlabeled) has a cutout portion at an end of the divider. The portions of the divider separated by the cutout are not pivotable. *Chaussadas* therefore fails to cure the deficiencies of either *Oliff* or *Stout* in disclosing individually pivotable top and bottom divider ends. Claim 20 therefore defines over *Stout*, *Oliff* and *Chaussadas*.

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In light of the above remarks, Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a).

### CONCLUSION

In light of the above remarks, Applicant respectfully asserts that the rejections of the claims as set forth in the Office Action have been addressed and overcome. Applicant further respectfully asserts that all claims are in condition for allowance and requests that an early notice of allowance be issued.

If issues may be resolved through Examiner's Amendment, or clarified in any manner, please call the undersigned attorney at (404) 879-2443.

The Commissioner is hereby authorized to charge any required fees or credit any overpayment to Deposit Account No. 09-0528.

Respectfully submitted,

2-15-05  
Date

C. Keith Montgomery  
C. Keith Montgomery  
Registration No.: 45,254

Customer No. 26158  
Womble Carlyle Sandridge & Rice, PLLC  
P.O. Box 7037  
Atlanta, GA 30357-0037  
(404) 879-2443 (Telephone)  
(404) 879-2943 (Facsimile)